



# புதுச்சேரி மாநில அரசிதழ்

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SOMMAIRES

CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள் ..	512	Sentence arbitral du travail de tribunal.	.. 512	Award of the Labour Court ..	512
அரசு அறிவிப்புகள் ..	520	Notifications du Gouvernement	.. 520	Government Notifications ..	520
ஒப்ப அறிவிப்புகள் ..	533	Avis d'Adjudications	.. 533	Tender notices ..	533
ஆபத்தான நிறுவனங்கள் ..	536	Etablissements dangereux	.. 536	Dangerous Establishments ..	536
சாற்றறிக்கைகள் ..	537	Annonces	.. 537	Announcements ..	537

GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G. O. Rt. No. 71/Lab./AIL/T/2017,  
Puducherry, dated 2nd May 2017)

NOTIFICATION

Whereas, the Award in I.D. (L) No. 22/2012, dated 24-3-2017 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the Industrial Dispute between the Management of Anglo French Textiles (A Unit of Pondicherry Textile Corporation), Puducherry and its workers Thiru P. Rangasamy and Thiru P. Zody over regularization in the post of Security Supervisor with remuneration has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**E. VALLAVAN,**  
Commissioner of Labour-cum-Additional  
Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present* : Thiru G. THANENDIRAN, B.COM.,M.L.,  
Presiding Officer.

*Friday, the 24th day of March 2017*

**I.D. (T) No. 22/2012**

1. P. Rangasamy,  
S/o. Perumal,  
No. 110, Vinayagar Koil Street,  
Sokkanathanpet, Pondicherry.
2. P. Zody,  
S/o. Pandarinathan,  
No. 19, First Cross,  
Shri Sathiya Sai Nagar,  
Reddiarpalayam, Puducherry . . . Petitioner

*Versus*

The Managing Director,  
Anglo French Textiles,  
(A Unit of Pondicherry  
Textile Corporation),  
Puducherry. . . Respondent.

This industrial dispute coming up before me for final hearing on 4-2-2017 in the presence of Thiru V.N.S. Srinivasan, Counsel for the petitioners and Tvl. L. Sathish. T. Pravin, S. Velmurugan and V. Veeraragavan, Counsels for the respondent upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute has been referred by the Government as per the G. O. Rt. No. 133/AIL/Lab./J/2012, dated 23-8-2012 for adjudicating the following:

(a) Whether the dispute raised by Thiru P. Zody and P. Rangasamy against the management of M/s. Anglo French Textiles over regularization in the post of Security Supervisor with remuneration is justified?

(b) If justified, what relief the petitioners are entitled to?

(c) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The brief averments of the claim statement filed by the petitioners are as follows :

(i) The first petitioner P. Rangasamy, Code No. 10447, has joined duty as a Security Guard on 1-11-1981 and the second petitioner P. Zody, Code No. 10448, has joined duty as a Security Guard on 1-4-1981, in M/s. Anglo French Textiles, Cuddalore Road, Puducherry through the Office Order No. PTC/AO/19? Security Dept./38 dated 10-1-2008 and 10-3-2008 and in view of the acute shortage of the shift in-charge, and the security department in-charge, is directed to utilize the services of the petitioners to look after the duties of shift in-charge of the security department in the same capacity. The duties and responsibilities of the Security Supervisor are careful vigil supervision along with guards during in and out of the employees, Roll call to company guards and Texco guards and duty allocation reports of Security Supervisor in-charge, clerk, attender, fire attendant and weigh bridge helper, etc.,

(ii) It is further stated that the duty hours of the Security Guards, Shift Supervisors and Office in-charge are as follows :

For Security Guard : I-Shift 08.00 to 16.00  
Roll Call-07.50 Hours.

II-Shift 16.00 to 23.59  
Roll Call-15.50 Hours.

III-Shift 23.59 to 08.00  
Roll Call - 23.50 Hours.

For Shift Supervisor : I-Shift 06.30 to 14.30 Hours  
II-Shift 14.30 to 22.30 Hours  
III-Shift 22.30 to 06.30 Hours

(iii) As per order, dated 10-1-2008, the petitioner P. Rangasamy had been assigned to 'C' shift, and as per order, dated 10-3-2008, the petitioner P. Zody had been assigned to 'B' shift to look after the duties of shift in-charge, solely, and they have continued the duties and responsibilities of retired Security Supervisor and also followed the Supervisor timings and after completion of 240 days, they had approached the management in person for the regularization along with remuneration. Due to non favourable consideration, they have given representation for the regularization along with remuneration, but it had not been honored by the management and hence they have filed a writ petition in W.P. No. 2967 and W.P. No. 2968 of 2011 respectively in the Hon'ble High Court, Chennai, for issuance of a writ of mandamus directing the management of Anglo French Textiles to consider the petitioner's representation dated 4-9-2010 and 26-10-2009 given to the third respondent claiming promotion for the post of Security Supervisor which is vacant in Anglo French Textiles in which, the Hon'ble High Court, Chennai passed an order dated 9-2-2011 directed the respondent to dispose of the representations, dated 4-9-2010 and 26-10-2009, if, it had not been disposed of till date on merits in accordance with law within period of twelve weeks from the date of receipt of the copy of the order and in this regard, the Office Manager called them and verbally promised for the action will be taken for all the benefits, instead of favourable consideration, the General Manager of Anglo French Textiles issued Memorandum No. PTC/AO/19/Sec./(Rep.)59/2010/134, dated 25-4-2011 and the Memorandum No. PTC/AO/19/Sec./(Rep.)59/2010/135, dated 25-4-2011 separately to the petitioner stating that the Post of Security Guard is coming under worker category and whereas the post of Security Supervisor is coming under staff category and the post of Security Supervisor is not at all in line of promotion for the

Security Guard/Head Security, since the two posts are under worker category, and they have been elevated to the grade of Head Security from the Security Guard with the enhanced pay scale, (*i.e.*) it may also be noted that being the Head Security the petitioners are performing the duties of shift in-charge and not acting as Security Supervisor as stated in the letter, dated 4-9-2010 and 26-10-2009 and then they had given counter separately to that Memorandum on date of 29-4-2011, with an evidence proof, that the worker became Staff, Supervisor, Assistant Manager, and also in the Security Department equal to the rank of Head Guard became Security Supervisor.

(iv) It is further stated that even after this, they have continued as shift in-charge and looked after duties and responsibilities of retired Security Supervisor and simultaneously the representation had been given in various date to the management and requested in that for the disposal of Hon'ble High Court Order, Chennai and due to non favourable consideration, they have filed petition at the Labour Officer (Conciliation) on 20-10-2011 and after came to know this fact through the concerned Department, the Joint Managing Director of Anglo French Textiles had issued an Order PTC/AO/19/Security Dept./Duty/38, dated 22-10-2011 stating that in Para. No. 2: The 8 guard may be engaged as Head Guard (acting) along with three existing Head Guards.

Para. No. 8 : the Security Supervisor will be over all in-charge in allocating day to day post for Head Guard, A.F.T. Security Guard, Texco Guard, for all units.

(v) It is further stated that the instruction given in the Para. No. 8, is one of the portfolio of the duties and responsibilities of retired Security Supervisor, and it had been looked after, by the petitioner of P. Rangasamy from the period 10-1-2008 to 22-10-2010 and the petitioner P. Zody from the period 10-3-2008 to 22-10-2010 and the management made sudden changes in the work nature willfully without prior intimation, in the motivation to suppress the claims of the petitioners due to the reason of filed petition at the Labour Officer (Conciliation) for the preservation of service condition and the nature of work, filed Civil Suit before the III Additional District Munsif Court, Puducherry, LA. No. 2898/2011 in O.S.No.1565/2011 and I.A. No. 2899/2011 in O.S. No. 1566/2011, for mandatory injection by directing the 3rd defendant therein to operate the order dated 10-1-2008 and 10-3-2008 with reference No. PTC/AO/19/Security/Dept./38, in favour of the petitioners until regularize them as Security

Supervisor, and for the declaration that the appointment Order in PTC/AO/19/Security Department/Duty/38 dated as against the plaintiff therein is null and void *ab-initio*. The petition filed by the 2nd and 3rd defendant therein under order VII Rule 11(d) of CPC to reject the suit as barred by express provisions of Industrial Dispute Act. The Hon'ble III Additional District Munsif Court, Puducherry passed an order on 13-12-2011, stating that the case as set up in the plaint by the plaintiff therein has to be adjudicated in the forum created under the Act. In the said case, the plaintiff therein has sought for promotion as per the standing order and remedy lies only in the Forum created by the Industrial Dispute Act and the civil suit is not maintainable and hence, the court has rejected the said on the ground that it has no jurisdiction to entertain and try the case. For the preservation of the service condition and nature of the work the petitioners again filed in the Hon'ble High Court, Chennai, W.P. No. 29917 of 2011 & M.P. Nos. 1 & 2 of 2011 seeking a writ of *certiorari* calling for the records on the file first respondent relating to the impugned order, dated 22-10-2011, bearing Ref.PTC/AO/19/Security/Dept./38 and quash the same in as much as it relates to the petitioners and their working as Security Supervisors in which the Hon'ble High Court, Chennai passed an order on 23-12-2011 dismissing the unit. However, if order of demotion is given to the petitioners they are at liberty to approach the appropriate forum in that regard.

(vi) It is further stated that along with above order, with a representation, dated 14-1-2011 to the joint Managing Director, for the grant of permission to continue to work of shift in-charge as done before and they eagerly waited for an order to continue to work, and instead of that the Personnel Department issued charge sheet No. 1 and Charge Sheet No. 2 to both of the petitioners on 23-1-2012 stating without prior intimation, P. Zody, Code No. 10448, from the date 31-12-2011 and P. Rangasamy, Code No. 10447 from the date 30-12-2011 were in continuous absent more than 8 days without turned to duty and it is misbehaviour to the institution under section 25 (f) & (L) and asked them to give explanation and for that the petitioners had given reply on 30-1-2012 that they were not in absenteeism and explained about the leave letters had been submitted in time. Further the Mill had declared with paid holiday due to natural calamities of "Thane Cyclone" with effect from 30-12-2011 to *sine die*. Some of the employees of Raaga Show room had not attended for duties from the dated 9-1-2012 and after obtaining apology letter, they have been excused. When

it is a fact, again, another caution notice No.I for the petitioner P. Zody and the caution notice No.2 for the petitioner P. Rangasamy, dated 14-2-2012 had been issued to the petitioner and for this they had given reply on 27-2-2012 to the Personnel Department. Thereafter, they have jointly sent a grievances letter, dated 22-3-2012 to grant permission to continue the work, but it had not been honoured. Due to the reason of the socken remedies through legal, the management had not considered the petitioners several representations and also not allowed to continue the work. On the intervention of the Law Secretary, Government of Puducherry they have joined duty immediately and then an order, dated 28-3-2012 was issued to them. The duties and responsibilities services had been extracted from the petitioner P. Zody and P. Rangasamy more than three years without regularization and remuneration for that grade and even after arrival of the new Security Supervisor they have continued the work as usual since they approached the Hon'ble High Court.

(vii) The Promotion Policy of Anglo French Textiles reads as follows :

(a) Whenever an employee is allocated to work in a higher category of leave vacancy, he is paid the category wages in which he has worked.

(b) Whenever there is permanent vacancy it I filled on the basis of Security-*cum*-Merit as per the standing orders. When it is a clear optical whitening evidence are in existence about the utilization of the petitioner P. Rangasamy for the period from 10-1-2008 to 22-10-2011 and the petitioner P. Zody 10-3-2008 to 22-10-2011 more than 1100 days as Shift in-charge obviously exceeding the limitation of 240 days, and after that the willful demotional activities of the management in their duties and respondent for spoiling the claim, due to the reason of filed petition at Labour Officer (Conciliation) and it is for justification that the petitioner P. Rangasamy is entitled for regularization of services in the post of Security Supervisor from the year 10-1-2008 onwards and P. Zody is entitled for regularization of services in the post of Security Supervisor for the year 10-3-2008 and to be given the due pay and allowances attached to the post with all attendant benefits.

(viii) After protracting the attempt of the conciliation, the management is not willing for an amicable settlement of the dispute and so the Labour Officer (Conciliation) had submitted failure report to the

authorities on 7-6-2012. Hence, they are filed this ID(T) No. 22 for the regularization/promotion to the post of Security Supervisor with retrospective effect from the year 10-1-2008 to the petitioner P. Rangasamy and to the petitioner P. Zody with retrospective effect from 10-1-2008 with monetary benefits according to the scale of pay prevailing in the respondent management of the relevant categories.

3. The brief averments of the counter filed by the respondent are as follows :

(i) The claim of the petitioners that a blanket direction for promotion/regularization is not a matter of right but it is a matter of policy of every establishment and promotion to a particular post will depend upon various criteria's set forth by establishment and Law recognizes right of a worker to be 'considered for a promotion' and not a 'right to promotion' and hence the petitioners can only seek a direction to be considered for promotion/regularization to post of Security Supervisor as and when Departmental Promotion Committee is convened to fill up vacancies in said post and cannot ask for a relief of direct promotion to the said post and that too with retrospective effect and hence the claim of petitioners for promotion with retrospective effect cannot even be entertained by this court and that petitioners do not have any case, much less justifiable case to seek the reliefs and hence reference will necessarily have to be answered in the negative. The petitioners have been directed to look after duties of shift in charge from 10-1-2008 and 10-3-2008 respectively and they are discharging the duties of Security Supervisor from 10-1-2008 and 10-3-2008 respectively and they have filed various cases in W.P. No. 2967/11, W.P. No. 2968/11, OS No.1565/11 and 1566/2011 and W.P. No. 29917/11 for enforcing their right of promotion/confirmation to the post of Security Supervisor and the respondent has declined to consider petitioners' request for promotion/regularization on the ground that petitioners were engaged as security supervisors, they were only engaged as Security in-charge and the post Security Supervisor is not in line of promotion for Security Guard and Security Head and the petitioners are being demoted by respondent by their notification, dated 22-11-2011. After failing in so many efforts before Hon'ble High Court as well as in Civil Court, petitioners have now knocked the doors of this court for similar remedies and the entire claim of petitioners is totally misconceived and against the basic tenets of service jurisprudence.

(ii) It is further stated that it is not true to claim that petitioners were posted anytime as Security Supervisor, much less on 10-1-2008 and 10-3-2008 and the orders issued by respondent on the aforementioned dates would make it absolutely clear that they were asked only to look after duties of shift in-charge in the same capacity as Security Guard and that additional responsibilities of shift in-charge were given to petitioners due to acute shortage of man power and therefore, respondent never promoted petitioners to the post of Security Supervisor on any date as is claimed by petitioner and hence the claim of petitioners that they have worked as Security Supervisors is absolutely false and baseless.

(iii) It is further stated that petitioners, who were working as Security Guard were promoted as Head Security *vide* respondent's notification G. O. Ms. No. G/2009-Ind.B, dated 23-9-2009 and Security Guard is in un-skilled 1' category but the Security Head is in un-skilled 1' category and their Pay Scale were elevated from ₹ 3,150-50-5,150 to the Scale Pay of ₹ 3,590-60-59,920 and thus they were given a basic Pay of ₹ 5,565. Had the petitioner been discharging their duties as Security Supervisors since 10-1-2008 and 10-3-2008, they would not have accepted the promotion of Security Head with revised Pay Scale on 23-9-2009.

(iv) It is further stated that as per its Certified Standing Orders, Security Guard is under worker category. The provisions of its Certified Standing Orders relating to promotion to worker category is as follows:

"13-promotion: All promotions shall be entirely at the discretion of the company whose decision shall be final. Promotion to a higher grade or post shall be on the basis of seniority-*cum*-merit and subject to a probationary period which may extend upto a period of 12 months in that grade or post before confirmation in the position and in the corresponding Grade and Scale of Pay".

Accordingly, by taking into consideration their seniority and merits, petitioners were elevated to the category of Head Security in Security Department with enhanced Pay Scales with effect from 1-7-2009 and in accordance with the said G. O. Ms. No. 6/2009-Ind.B. dated 23-9-2009 and as per directions of Hon'ble High Court, Madras in W.P. No. 2968 & 2967 of 2011 and respondent had issued suitable replies to petitioners on 25-4-2011 rejecting their request for promotion to the post of Security Supervisor as they were in workers category and already they were elevated to the post of

Head Guard and it was also clarified that Head Guard is not the feeder post for the post of Security Supervisor. However, petitioners were also informed that they can compare with the others during selection of Security Supervisor if they fulfill the qualification prescribed for that post.

(v) It is further stated that not satisfied with reply of respondent. Petitioner once again approached High Court, Madras in W.P. No. 29917/2011 to quash the order of this respondent, dated 22-10-2011 bearing ref.PTC/AO/19/Security/Department/duty/38 wherein the respondent had promoted 8 Security Guards as Head Guard (Acting) and after considering the arguments on merits, the Hon'ble High Court dismissed the said writ petition and directed the respondent to approach the appropriate forum if at all they have any claims. Petitioners have also filed civil suit before Hon'ble III-ADM at Puducherry in O.S. No. 1565/2011 and O.S. No. 1566/2011 respectively seeking substantially similar reliefs as is sought for in the present industrial disputes. The Hon'ble III-ADM, Puducherry has rejected the plaint *vide* order, dated 13-12-2011. Assuming without admitting that petitioners did discharge the functions of Security Supervisor in the course of employment as shift in-charge that by itself does not confer any right on petitioners to seek regularization or promotion to the post of Security Supervisor. The petitioners were given additional responsibilities of shift in-charge only as a stop gap arrangement and in the same capacity as Security Guard and later as Security Head to meet emergency situation created due to shortage of man power. It was not a promotion to the post of shift in-charge by following due process of service rules. It is trite that any stop gap arrangement by virtue of which an employee is required to discharge a particular function cannot give right to seek regularization or promotion to the said post irrespective of the length of service he had given in the said post on *ad-hoc* basis. Hence, the petitioners do not have any legal mandate to claim any reliefs from this Court for regularization or promotion to the post of Security Supervisor. Moreover the petitioners were promoted as "Head Security" from the posts of "Security Guard" with revised pay scale of 23-9-2009 and prayed for dismissal of claim petition.

4. In the course of enquiry on the side, of the petitioner PW.1 and PW.2 were examined. Ex.P1 to Ex.P30 were marked and on the side of the respondent R1 has examined and Ex.R1 and R2 were marked.

5. *The point for consideration is:*

Whether the petitioners are entitled for regularization in the post of Security Supervisor with remuneration or not?

6. Both side arguments were heard. On the side of both sides, written arguments were filed and the same is carefully considered. In support of his case, the petitioners in their claim statement relied upon the following decisions in:-

*1989L.A.B.I.C 2010*

Council of scientific and industrial research and another Vs. K.G.B. Batt and others.

'Administrative Tribunal Act 1985 S.10 - Promotion- Public or Private Organizations- opportunity of advancement has to be given - person is appointed not just for JOB but whole carrier'.

*1997 LAB.I.C 1807:*

Nazrul hassan Siddiqui Vs. Presiding Officer, Central Government Industrial *cum* Labour Court No. 2, Bombay and others.

"Employee working in a higher post - Sch.2 Item 6-Claiming Classification of higher post and payment of salary of that post-Individual dispute raised not substantial number of workmen in Industry - he would be entitled to payment of higher salary for work discharged on that post".

7. *On the Point:*

This reference has been made by the Government to adjudicate the dispute raised by these two petitioners against the management of Anglo French Textiles over regularization in the post of Security Supervisor with remuneration. In order to prove the case PW.1 and PW.2 were examined and Ex.P1 to Ex.P30 were marked. It is the evidence of the PW.1 that petitioners are working as Security Guard from the year 1981 in the respondent management Textile Mills and due to the shortage of Security Supervisors, these petitioners have been utilized by the Security Department to look after the duties of shift in-charge in the same capacity from 2008 the petitioners had been in the shift to look after the duties of shift incharge and after completion of 240 days in the place of retired shift Supervisors. These petitioners have approached the management- in person for regularization along with remuneration and continued the work as Security Supervisor which was not honored by the management and therefore these petitioners have filed a writ petition in W.P. No. 2967 and 2968 of 2011 and the Hon'ble High Court also pleased to pass an order against the respondent directing

them to dispose the representation of the petitioners, dated 4-9-2010 and 26-10-2009 within 12 weeks from the date of receipt of the order but the respondent management has issued a memorandum to the petitioners on 25-4-2011 stating that post of Security Guard is coming, under worker category and the post of Security Supervisor is coming under staff category and the post of Security Supervisor is not at all in line of promotion for the Security Guard and hence the petitioners have been elevated to the grade of Head Security from the Security Guard with enhanced pay scale and that they have been informed that they have worked as only the duties of shift in-charge and not acting as Security Supervisor as stated in the representation for which petitioners have filed a separate memorandum, dated 29-4-2011 with an evidence proof that the workers became staff, supervisor, Assistant Manager and also in the Security Department equal to the rank of Head Guard became Security Supervisor and that therefore they have raised a dispute before the Conciliation officer on 20-10-2011.

8. It is the further evidence of the PW.1 that they have filed a suit before the III Additional District Munsif Court, Puducherry for mandatory injunction by directing the management to regularize them as Security Supervisor and for the declaration that the appointment order as null and void which was disposed of by the III Additional District Munsif Court that they have no jurisdiction to entertain and try the suit and it raise in the Forum created by the Industrial Dispute Act and they subsequently moved the Hon'ble High Court in W.P. No. 29917 of 2011 to quash the order passed by the respondent management and the Hon'ble High Court was also pleased to dismiss the writ petition and the petitioner, however, if there is any order of demotion is given to the petitioners they are at liberty to approach the appropriate forum in that regard and thereafter the respondent management has issued a charge against these petitioners stating that the petitioners are in continuous absent for more than 8 days without turned up to duty and it is misbehaviour to the institution under section 25(f) & (L) calling them to give explanation for which the petitioners gave their reply that they were not in absenteeism and explained that the leave letters have been submitted in time but it was not accepted by the management and enquiry was conducted on 6-2-2012 without giving prior notice and as per the direction of the Enquiry Officer they submitted a apology letter and again both the petitioners submitted a grievances letter, dated 26-3-2012 to the Law Secretary, Government of Puducherry and when the petitioners submitted about the unfair law practice, the respondent had given reply

for the Right of Information that in view of the huge laws the management imposed a total ban on all requirement of personnel and also reduced production activity in the units by sending the employees on VRS and filling up vacancies not required and when the employees left on superannuation, resignation, death *etc.*, to cut costs, the management has engaged the Security on contract basis, from Security agencies whenever required and that they came to know that one Paramasivam was given special consideration for the extension period of service continuously without considering the genuine claim of the petitioners and he has been appointed on contract basis as Security Supervisor in the respondent management for the period of one year and that therefore when the management has not allowed to do continuously and the duties and responsibilities of the shift in-charge as done before and even after extracting the duties and responsibilities of the retired Security Supervisor for more than 11.00 days instead of regularization and remuneration the management had wilfully decided and fixed the limitation and wantonly planned for the domination of the petitioners which is called in other words, as it is for the demotional and that therefore these petitioners prayed for the regularization/promotion to the post of Security Supervisor with retrospective effect from the year 2008 with monetary benefits according to the Scale of Pay prevailing in the respondent management. In order to prove the contention, the petitioners have exhibited Ex.P1 to Ex.P30.

9. From the evidence of petitioners PW.1 and PW.2 and exhibits marked through them, it is clear that it is the grievances that they have been asked to holding and discharging the duties of the Security Supervisor for more than 11.00 days *i.e.*, even that they have been completed the 240 days in continuous but they have not been promoted or regularized in the post of Security Supervisor. On the other hand, the respondent management has let the evidence through RW1, Deputy Manager of the respondent establishment who is stated in his evidence that the promotion/regularization is not a matter of right and it is a matter of policy of every establishment and promotion to a particular post will depend upon various criteria's set forth by the establishment and Law recognizes in the right of a worker considered for promotion and not a right to promotion and hence the petitioners can only seek a direction to be considered for promotion/ regularization to post of Security Supervisor as and when Departmental Promotion Committee is convened to fill up vacancies and cannot asked for relief of direct promotion to the said post and that too with retrospective effect and that

claim of the petitioners with retrospective effect cannot even be entertained by this court and that the entire claim of the petitioners is totally misconceived and the petitioners have posted Security Supervisor at any time and the order passed on 10-1-2008 and 10-3-2008 in regard to the petitioners is very clear that they have been asked to look after the decision of the shift in-charge in the same capacity as Security Guard and that it was made clear that the additional responsibility of shift in-charge was given to them due to acute shortage of man power and with the petitioners have been discharging their duties as Security Supervisors since from 2008 they would not have accepted the promotion of Security Head with revised pay scale on 23-9-2009 while they have permitted and that the certified standing orders, Security Guard is under worker category and the standing orders relating to promotion to worker category and as writ application filed by the petitioner to quash the order of the respondent, dated 22-10-2011 in W.P. No. 29917/2011 while the respondent promoted 8 Security Guards as Head Guard, the Hon'ble High Court was pleased to dismiss the writ petitioner and directed the respondent to approach the appropriate forum if at all they have any claims and that therefore the claim of petitioners is devoid of merits and in support of its case, the respondent management has exhibited the copy of authorization letter to Mr. Praghatheeswaran as Ex.R1 and the copy of the certified standing orders of AFT mills, Puducherry as Ex.R2.

10. From the evidence of both the parties, it is clear that the respondent has contended that as per the standing order all the promotions shall be entirely at the discretion of the company whose decision shall be final. The standing order of the respondent mill is exhibited as R2 and clause (13) of the standing order runs as follows:

Promotion : All employees shall be entirely at the discretion of the company whose decision shall be final. Promotion to a higher grade or post shall be on the basis of seniority *cum* merit and subject to a probationary period which may extend up to a period of twelve months in that grade or post before confirmation in that position and in the corresponding Grade and Scale of Pay".

From the above, it is clear that the promotion is the discretion of the company whose decision shall be final. Promotion to a higher grade or post shall be on the basis of seniority *cum* merit and subject to a probationary period which may extend up to a period of one year.

11. It is the further case of the respondent that the Security Guard and Head Guard are the category of the workmen, the Security Supervisor is the cadre of staff. On this aspect, the learned counsel for the respondent relied upon the following decision in

*The Supreme Court, in Syed Khalid Rizvi and others etc., and Union of India and other, etc, reported in 1993 I LLJ 887, wherein, it has been observed that-*

"Service Law - Promotion - Chances of promotion not condition of service - No employee has right to promotion, but only right to be considered for promotion as per rules - Chances of promotion are not conditions of service."

The learned counsel for the respondent also relied upon the following decision in *State Bank of India and others and Mohd. Mynuddin, reported in 1988 I LLJ 142*, wherein the Apex Court observed that -

"court is not competent to decide merit, ability and competence for promotion - only in cases where bias or malafides are proved court can direct the management to reconsider the case for promotion and cannot straightaway direct promotion".

The learned counsel for the respondent also relied upon the following decision in *management of Bihar State Super Phosphate Factory, Sindri Vs. The Presiding Officer, Labour Court and others, reported in 1996 I LLJ 931*, wherein Patna High Court has held that-

"Promotion is the matter for management Court can interfere only in case of malicious consideration and unfair labour practice. In the absence of malafides it is for the management to decide. Labour Court cannot order promotion."

The learned counsel for the respondent also relied upon the following decision in *In U.P. State Cement Corporation Ltd., Vs. Industrial Tribunal I U.P. Allahabad and another, reported in 1996 II LLJ 953*. wherein the Allahabad High Court has observed that -

"A promotion cannot be claimed as of right and person claiming promotion to the higher post must hold necessary qualification and eligibility for promotion."

12. In the light of the above citations referred by the respondent counsel, it is clear that this court is not competent to decide the case for promotion and no employee has right to promotion but only right to be considered for promotion. As per rules, chances of promotion are not conditions of services and the promotion is the matter for management and in the

absence of malafides, it is for the management to decide the promotion particularly the Labour court cannot order for promotion and that therefore, these petitioners employees could not claim the promotion as a matter of right, however they have promoted as Head Guard by the management.

13. As per the standing order of the respondent company which is exhibited as Ex.R2, it is clear that the management having discretion for promoting their employees and merely an employee holding and discharging the duties of the Security Supervisor, it cannot be presumed to be suitable for onward promotion to the post of Security Supervisor and all those posts can be determined by the management and the management can promote the person who fulfilled the conditions of eligibility for Security Supervisor and that therefore the dispute in respect of regularization is not justified and hence the petitioners are not entitled for any relief of regularization/promotion as claimed by them.

14. However, these petitioners have been asked to do the shift in-charge work and they have been in service for about 1100 days as directed by the respondent. The citation referred by them in 1997 LAB.I.C 1807 in Nazrul hassan Siddiqui Vs. Presiding Officer, Central Govt. Industrial *cum* Labour Court No.2, Bombay and others, in which the Hon'ble, High Court observed that when an employee has been asked to do the work of the higher post, he would be entitled for the payment that the higher salary of that post and therefore these petitioners are entitled for the salary for a period for which the respondent company has asked them to discharge the duties of the shift in-charge and hence in respect of the salary benefits, the petitioners are entitled for the higher salary to the post of shift in-charge for a period for which the respondent company has asked them to discharge the duties of the shift in-charge.

15. In the result, the petition is partly allowed in respect of remuneration and the petitioners are entitled for the higher pay for the period which the respondent company has asked these petitioners to discharge the duties of the shift in-charge and the petition is partly dismissed in respect of regularization and promotion of the petitioners. No cost.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the open court on this the 24th day of March, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-*cum*-  
Labour Court, Puducherry.

*List of petitioner witness:*

- P.W. 1— 27-08-2013 – P. Zody  
P.W. 1— 14-03-2014 – L. Sundararajan Rajan

*List of petitioner exhibits:*

- Ex.P1 — 10-01-2008 Copy of the PTC AO/19/ Security/Dept./38, dated 10-1-2008.  
Ex.P2 — 10-03-2008 Copy of the PTC/AO/19/Security/Dept./38, dated 10-3-2008.  
Ex.P3 — 09-02-2011 Judgment Copy of the Hon'ble High Court, Chennai.  
Ex.P4 — 13-12-2011 Judgment Copy of the III Additional District Munsif, Pondicherry.  
Ex.P5 — 23-12-2011 Judgment Copy of the Hon'ble High Court, Chennai.  
Ex.P6 — 25-04-2011 Copy of the Memorandum-PTC/AO/19/Sec./Rep./59/ 2010-134 &135.  
Ex.P7 — 03-04-2012 Copy of the Memorandum-PTC/AO/19/Sec./Rep./59/2010-563 &564.  
Ex.P8 — 13-04-2012 Copy of the Memorandum-PTC/AO/19/Sec./Rep./59/2010-574 &575.  
Ex.P9 — 18-10-2008 Copy of the RTI Ref.:TC/RTI/01/INFO/63/134/2008/726/18-2008.  
Ex.P10 — 19-05-2007 Copy of the RTI Ref: PTC/2007/161.  
Ex.P11 — 27-05-2010 Copy of the RTI Ref:PTC/RTI/01/INFO/63/189/2010/216.  
Ex.P12 — 27-07-2011 Copy of the Standing order on No. 13 regarding promotion.  
Ex.P13 — 13-06-2011 Copy of the RTI Ref:PTC/RTI/01/INFO/63/264/2011/185.  
Ex.P14 — 22-10-2011 Copy of the PTC/AC/19/ Security Department/ Duty/38.  
Ex.P15 — 08-01-2011 Copy of the letter to Managing Director.  
Ex.P16 — 14-07-2011 Copy of the letter to Managing Director.

Ex.P17 — 27-09-2011	Copy of the letter to Chief Secretary.
Ex.P18 — 20-10-2011	Copy of the petition filed at Labour Officer (Conciliation).
Ex.P19 — 01-11-2011	Copy of the letter to Labour Officer (Conciliation).
Ex.P20 — 14-01-2012	Copy of the letter to Joint Managing Director.
Ex.P21 — 20-01-2012	Copy of the letter to Managing Director.
Ex.P22 — 22-03-2012	Copy of the letter to Managing Director.
Ex.P23 — 26-03-2012	Copy of the letter to Law Secretary.
Ex.P24 — 27-02-2012	Copy of the letter to Office Manager.
Ex.P25 — 27-02-2012	Copy of the letter to Manager IR/I/C.
Ex.P26 — 30-01-2012	Copy of the letter to Manager IR/I/C.

Ex.P27 — 15-03-2012	Copy of the letter to Office Manager.
Ex.P28 — 23-03-2012	Copy of the letter to Assist. Labour Officer i/c.
Ex.P29 — 31-03-2012	Copy of the letter to General Manager.
Ex.P30 — 28-03-2012	Copy of the Office Order to P.Zody and P. Rangasamy.

*List of respondent's witness:*

RW.1 — 18-7-2014 Pragatheeswaran

*List of respondent's exhibits:*

Ex.R1 — 9-7-2014 Letter to authorization to Mr.Pragatheeswaran.

Ex.R2 — — Certified standing orders of AFT Mills, Puducherry.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

**புதுச்சேரி அரசு****மாவட்ட சார்பு ஆட்சியர் (வருவாய்) அலுவலகம்**

எண் 3593/மாசாஆ/காணர/95/மறு ஒப்படை/2016.

**அறிவிப்பு**

[புதுச்சேரி நில மானிய விதி 1975, விதி 60(iii)-ன் கீழ்]

புதுச்சேரி அரசால் தங்களுக்கு ஒப்படை செய்யப்பட்ட கீழ்க்காணும் நிலவிவரங்களுடைய இடத்தில் தாங்கள் வீடு கட்டாமலோ அல்லது குடியிருக்காமலோ இருப்பதன் மூலம் தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணையில் காணப்படும் நிபந்தனை (2)-ஐ தாங்கள் கடைபிடிக்காததை அறியவும்.

வரிசை எண் (1)	ஒப்படை பெற்றவரின் பெயர் மற்றும் முகவரி (2)	மறு அளவை எண் (3)	நிலத்தின் பரப்பளவு (4)	நில ஒப்படை ஆணை எண் (5)
			H. A. Ca.	
21-திருவேட்டகுடி வருவாய் கிராமம் :				
1	ஆரோக்கியம், த/பெ. குழந்தை.	93/70	0 01 42	173/86

ஆதலால், இவ்வறிவிப்பு கிடைக்கப்பெற்ற 15 நாட்களுக்குள் தங்களுக்கு வழங்கப்பட்ட இடத்தினை ஏன் அரசே திரும்ப எடுத்துக்கொள்ளக்கூடாது என்பதற்கான காரணங்களை இவ்வலுவலகத்திற்கு தெரிவிக்கும்படி கேட்டுக்கொள்ளப்படுகிறது. இது தொடர்பாக தாங்கள் கருத்து ஏதேனும் தெரிவிக்க விரும்பினால், மேற்குறிப்பிட்ட காலக்கெடுவிற்குள் கீழ் கையொப்பமிட்டுள்ள அதிகாரியிடம் நேரில் முறையிடலாம்.

குறிப்பிட்ட காலக்கெடுவிற்குள் தாங்கள் நேரிலோ அல்லது கடிதம் வாயிலாகவோ தங்களது கருத்தைத் தெரிவிக்காவிடில் தங்களிடம் கருத்துக்கூற ஏதும் இல்லை எனக் கருதப்பட்டு இதற்குமேல் எந்த அறிவிப்புமின்றி தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணை ரத்துசெய்யப்படும்.

காணரக்கால், 2017 (வர) மே 10<sup>ம்</sup> 10<sup>வ</sup>.

**இர. கேசவன்,** இ.ஆ.ப.,  
சார்பு ஆட்சியர் (வருவாய்).